



**BILLING CODE: 4410-09-P**

**DEPARTMENT OF JUSTICE  
Drug Enforcement Administration**

**[Docket No. 14-4]  
Kate B. Mayes, M.D.;  
Decision and Order**

On February 19, 2014, Administrative Law Judge (ALJ) Gail A. Randall issued the attached recommended decision. Neither party filed exceptions to the decision. Having reviewed the entire record, I have decided to adopt the ALJ's rulings, findings of fact, conclusions of law, and recommended order. Accordingly, I will order that Respondent's DEA Certificate of Registration be revoked and that any pending application to renew or modify her registration be denied.

**ORDER**

Pursuant to the authority vested in me by 21 U.S.C. 823(f) and 824(a)(3), as well as 28 CFR 0.100(b) and 0.104, I order that DEA Certificate of Registration BM8500452, issued to Kate B. Mayes, M.D., be, and it hereby is, revoked. I further order that any pending application of Kate B. Mayes, M.D, to renew or modify her registration, be, and it hereby is, denied. This Order is effective [insert date 30 days from date of publication in the Federal Register].

Dated: April 21, 2014.

Thomas M. Harrigan,  
Deputy Administrator.

Bryan Bayly, Esq., for the Government  
Kate B. Mayes, M.D., Pro Se, for the Respondent

**RECOMMENDED RULINGS, FINDINGS OF FACT, CONCLUSIONS OF LAW, AND  
DECISION OF THE ADMINISTRATIVE LAW JUDGE**

**I. FACTS**

Gail A. Randall, Administrative Law Judge. The Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, (“DEA” or “Government”), issued an Order to Show Cause (“Order”) dated October 25, 2013, proposing to revoke DEA Certificate of Registration (“COR”) number BM8500452 of Kate B. Mayes, M.D. (“Respondent”), a practitioner, pursuant to 21 U.S.C. § 824(a)(3) (2006), because Respondent lacks state authority to manufacture, distribute, or dispense controlled substances.

The Order alleged that, effective June 27, 2012, Respondent’s medical license was suspended by the South Carolina Board of Medical Examiners (“Board”). [Order at 1]. Accordingly, the Order stated that “DEA must revoke [Respondent’s] current DEA registration based upon [her] lack of authority to handle controlled substances in the state of South Carolina.” [Id. at 1–2 (citing 21 U.S.C. §§ 802(21), 823(f), and 824(a)(3))]. The Order notified Respondent that she may, within thirty days of her receipt of the Order, request a hearing to show cause as to why the DEA should not revoke her registration. [Id. at 2 (citing 21 C.F.R. § 1301.43(a) (2013))].

Respondent was served with the Order on November 4, 2013. On December 3, 2014, Respondent timely filed a letter with this office requesting that I, the Administrative Law Judge assigned to this matter, grant her an extension of time to respond to the Order. Pursuant to my authority under 21 C.F.R. § 1316.47(b), I granted Respondent’s request for an extension of time and ordered Respondent to respond to the Order by December 19, 2013. On December 19, 2013,

Respondent filed a request for a hearing,<sup>1</sup> and on December 20, 2013, I ordered the Government and Respondent to file prehearing statements by January 10, 2014 and January 17, 2014, respectively.

On January 10, 2014, the Government filed a motion with this Court entitled Government's Motion for Summary Judgment and to Stay the Dates for the Parties to Submit Prehearing Statements ("Government's Motion"). Therein, the Government requested that I issue a decision recommending that the DEA summarily revoke Respondent's COR because Respondent's state medical license has been suspended and Respondent therefore lacks state authority to handle controlled substances. [Gov't Mot. at 1, 2]. Additionally, the Government requested that I postpone the deadlines for filing prehearing statements until I have ruled on the motion. [Id.].

On January 13, 2014, I issued an order for Respondent to respond to the Government's Motion by January 21, 2014. Also in the order, I stayed the deadlines for prehearing statements until I have ruled on the Government's Motion. Respondent did not file a response to the Government's Motion; indeed, this office has received no correspondence from Respondent since she requested a hearing on December 19, 2013.

For the reasons set forth below, I will grant the Government's Motion and recommend that the Deputy Administrator revoke the Respondent's DEA Certificate of Registration and deny any currently pending applications to renew this registration.

## **II. DISCUSSION**

The Controlled Substances Act ("CSA") provides that obtaining a DEA registration is conditional on holding a state license to handle controlled substances. [See 21 U.S.C. § 802(21)]

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<sup>1</sup> Although the Respondent mentioned an attorney in her request for a hearing and in her request for an extension of time, no attorney has entered a notice of appearance for Respondent in this case.

(defining “practitioner” as “a physician . . . licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . to distribute, dispense, [or] administer . . . a controlled substance in the course of professional practice”); 21 U.S.C. § 823(f) (“the Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices”); see also § 824(a)(3) (“a registration may be suspended or revoked by the Attorney General upon a finding that the registrant has had his State license or registration suspended, revoked or denied by competent State authority”)]. The DEA, therefore, has consistently held that the CSA requires the DEA to revoke the registration of a practitioner who no longer possesses a state license to handle controlled substances. See e.g. Joseph Baumstarck, 74 Fed. Reg. 17,525, 17,527 (DEA 2009) (“a practitioner may not maintain his DEA registration if he lacks authority to handle controlled substances under the laws of the state in which he practices”); Roy Chi Lung, M.D., 74 Fed. Reg. 20,346 (DEA 2009); Gabriel Sagun Orzame, M.D., 69 Fed. Reg. 58,959 (DEA 2004); Alton E. Ingram, Jr., M.D., 69 Fed. Reg. 22,562 (DEA 2004); Graham Travers Schuler, M.D., 65 Fed. Reg. 50,570 (DEA 2000); Dominick A. Ricci, M.D., 58 Fed. Reg. 51,104 (DEA 1993).

DEA has also held that revocation by summary disposition is proper when the parties agree that the respondent lacks state authority to handle controlled substances. Michael G. Dolin, M.D., 65 Fed. Reg. 5,661, 5,662 (DEA 2000) (“where no questions of material fact is involved, a plenary, adversary administrative proceeding involving evidence and cross-examination of witnesses is not obligatory”) (citing Jesus R. Juarez, M.D., 62 Fed. Reg. 14,945 (1997); Philip E. Kirk, M.D., 48 Fed. Reg. 32,887 (DEA 1983), aff’d sub nom Kirk v. Mullen, 749 F.2d 297 (6th Cir. 1984)).

Here, it is undisputed that Respondent is without state authority to handle controlled

substances. Notably, Respondent's COR only authorizes her to handle controlled substances in South Carolina. [Gov't Mot. Attach. 1 at 1]. However, in her request for a hearing, Respondent acknowledged that she has no authority to handle controlled substances in the state, noting that she hopes to have her license reinstated "[a]fter more than 18 months of having a suspended medical license in the state of South Carolina." Also, the Government attached to its Motion a copy of the South Carolina Board's order suspending Respondent's medical license "pending further Order of the Board." [Gov't Mot. Attach. 2 at 1]. Respondent has not responded to the Government's Motion and therefore has offered no evidence that any "further Order of the Board" has been issued. I therefore find that Respondent lacks state authority to handle controlled substances because her medical license in South Carolina is suspended.

### **III. CONCLUSION, ORDER, AND RECOMMENDATION**

Because there is no genuine dispute that the Respondent currently lacks state authority to handle controlled substances, summary disposition for the Government is appropriate.

Accordingly, I hereby

GRANT the Government's Motion.

I also forward this case to the Deputy Administrator for final disposition. I recommend that the Respondent's DEA Certificate of Registration, Number BM8500452, be revoked and any pending renewal applications for this registration be denied.

Date: February 19, 2014

s/Gail A. Randall  
Administrative Law Judge

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